IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6134 OF 2005

Miss Pallavi Jagannath Uplap. ... Petitioner.

Vs.

The State of Maharashtra & Ors. ...Respondents.

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Mr. Y.S. Jahagirdar, Sr. Advocate with Mr. N. V. Bandiwadekar for the Petitioner.
Mr. C.R. Sonawane, AGP for the Respondents.

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CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

January 19, 2006.

P.C. (Per Dr. Chandrachud, J.) :

Rule, by consent returnable forthwith. Counsel appearing on behalf of the Respondents waives service. By consent of Counsel and at their request taken up for hearing.

2. The Petitioner has impugned in these proceedings, an order passed by the Committee for Scrutiny of Tribe claims by which the claim of the Petitioner to belong to the Mannerwarlu Scheduled Tribe has been invalidated.

3. The Scrutiny Committee has adverted to the documents

that were produced by the Petitioner, to the report of the Police Inspector attached to the Vigilance Cell and to the information furnished by the Petitioner on the traits, characteristics and customs of the community to which she belongs. The documentary material which came on the record of the Scrutiny Committee inter alia shows that the caste of the paternal uncles and other relatives has been recorded as Telugu Fulmali. All of these documents are for the period between 1929 and 1935. Being pre-Constitution documents, these documents have a high probative value and that is what the Committee found in its impugned order. The Scrutiny Committee also noted that the Petitioner was not aware of the customs and traditions of the Mannerwarlu community and the information that she had furnished was not associated with the customs, traits and characteristics of that community. The test of ethnic linkage was not therefore fulfilled.

4. At the hearing of this petition, the attention of the Court has been drawn to an order dated 9th December 2005 passed by a Division Bench of this Court consisting of Dr.Justice S. Radhakrishnan and Mr.Justice R.S. Mohite in **Kum.Shruti**

Shridhar Uplap vs. State of Maharashtra (W.P. 4054 of 2002). The genealogy of the family of the Petitioner in these proceedings has been annexed to the compilation at Exh.D. From the genealogy it is apparent that the Petitioner here is the first cousin of Kum.Shruti Shridhar Uplap who was the Petitioner before this Court in Writ Petition 4054 of 2002. Writ Petition 4054 of 2002 was instituted before this Court in order to challenge the order of the Scrutiny Committee dated 19th April 2002 invalidating the claim of the Petitioner therein to belong to Mannerwarlu, Scheduled Tribe. The Division Bench of this Court was of the view that there was substance in the contention of the Petitioner there that the Scrutiny Committee had not duly considered three vital pieces of documentary evidence. Accordingly, the matter was remanded back to the Committee for a fresh determination of the tribe claim.

5. On behalf of the Petitioner, it has been submitted that having regard to the order of remand which has been passed by a Division Bench of this Court in a case (W.P. 4054 of 2002) involving a close relative of the Petitioner, it would be appropriate if this Court were to remand the present proceedings to the Scrutiny Committee. We are inclined to accept the submission which has

been urged before us for the following reasons. In accepting the plea for a remand, we have been guided by the principle that there should be consistency in judicial pronouncements. That apart, the case of a close relative of the Petitioner has been remanded back to the Scrutiny Committee for fresh determination. From the genealogy it appears that Jagannath who is the father of the Petitioner is the brother of Shridhar who is the father of the Petitioner in the earlier Writ Petition which has been remanded to the Scrutiny Committee. A consistency of determination within the same family in regard to tribe claims needs no emphasis. In these circumstances, without expressing any conclusive view of this Court on the correctness of the determination which has been arrived at by the Scrutiny Committee in its impugned order dated 18th May 2005, we remit the matter back to the Scrutiny Committee for a fresh determination in accordance with law. All the rights and contentions of the parties are kept open and it is made clear that the Scrutiny Committee shall decide the matter afresh on remand without considering itself to be bound by the findings which have been arrived at in the impugned order. The case of the Petitioner shall be decided by the Scrutiny Committee together with that of the Petitioner in Writ Petition 4054 of 2002 in which an order of

remand was passed by the Division Bench of this Court. The time to decide both the matters shall stand extended by a period of six months from the communication of this order. The petition shall accordingly stand disposed of. In the facts and circumstances of the case, there shall be no order as to costs.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)